

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WISCONSIN

OPERATING ENGINEERS LOCAL 139
HEALTH BENEFIT FUND, CENTRAL
PENSION FUND OF THE INTERNATIONAL UNION
OF OPERATING ENGINEERS AND PARTICIPATING
EMPLOYERS, WISCONSIN OPERATING ENGINEERS
SKILL IMPROVEMENT AND
APPRENTICESHIP FUND,
JOINT LABOR MANAGEMENT WORK
PRESERVATION FUND,
TERRANCE E. MCGOWAN, as a Trustee of said Funds
except CENTRAL PENSION FUND, MICHAEL A. CRABTREE
as Chief Executive Officer of CENTRAL PENSION FUND, and
INTERNATIONAL UNION OF OPERATING
ENGINEERS, LOCAL 139,

Plaintiffs,

v.

CIVIL ACTION NO. 2018-CV-00623

LAKE EFFECT CONSTRUCTION, INC.
5223 OAKES AVENUE
SUPERIOR, WI 54880,

Defendant.

JUDGMENT ORDER

This matter coming on to be heard upon the Motion of Plaintiffs, by their counsel, it appearing to the Court that the Defendant LAKE EFFECT CONSTRUCTION, INC., a Wisconsin Corporation, having been regularly served with process and having failed to appear, plead or otherwise defend, and default of said Defendant having been taken, the Court, first being fully advised in the premises and upon further evidence submitted herewith, FINDS:

1. It has jurisdiction of the subject matter herein and of the parties hereto.
2. The Defendant is bound by the terms of the collective bargaining agreement referred to in the Complaint of Plaintiffs.

3. The Defendant is obligated to make contributions to each of the Plaintiff Funds in accordance with the collective bargaining agreement.

4. The Defendant is bound by all the terms and conditions set forth in the Agreements and Declarations of Trust governing the Plaintiff Funds.

5. Defendant has made available to the Plaintiffs payroll books and records for the purpose of taking an account as to all employees of the Defendant covered by the collective bargaining agreement referred to in the Complaint of the Plaintiffs to determine amounts due to Plaintiffs.

6. Plaintiffs' auditors completed audits of the payroll books and records of Defendant. The audits were conducted for the periods of October 1, 2016 through June 30, 2017 and July 1, 2017 through March 31, 2018 ("Audited Period). In addition, Defendant reported hours for which payment is still outstanding for the period of April 1, 2018 through the present ("Unaudited Period).

7. Upon such audits and other records, it is determined that there is due and owing, for such Audited and Unaudited Periods, to Plaintiffs, the amounts of \$16,551.24 for contributions; \$1,789.98 for delinquent payment assessments, and \$835.46 is due for interest, or a total of \$19,176.68.

8. Plaintiffs are entitled to make a further audit of the payroll books and records to cover periods not previously audited by Plaintiffs, including but not limited to the time period of April 1, 2018 through present.

9. Defendant has failed to timely make all contributions required to be made to the Plaintiff Funds; as provided in the Agreements and Declarations of Trust governing the respective Funds, Plaintiffs are entitled to recover:

- a) Delinquent contributions;
- b) The cost of the audit of the payroll books and records of Defendant;
- c) Delinquent payment assessments equal to twenty (20%) percent of contributions paid late during the delinquent period;
- d) Interest in the amount of 1.5% per month (not compounded);
- e) Post-judgment interest; and
- f) Costs and expenses of the Trustees, including their reasonable attorneys' fees.

10. Plaintiffs have incurred reasonable attorneys' fees and costs totaling \$1,653.25.

11. There is no just cause for delay in the entry of judgment as to the sum of

\$20,829.93 owed to the Plaintiffs from Defendant.

IT IS THEREFORE ORDERED:

A. That Plaintiffs recover from the Defendant, LAKE EFFECT CONSTRUCTION, INC., a Wisconsin corporation, the sum of \$16,551.24 for contributions, \$1,789.98 for delinquent payment assessments, and \$835.46 for interest, or a total sum of \$19,1976.68.

B. That Plaintiffs recover from the Defendant, LAKE EFFECT CONSTRUCTION, INC., a Wisconsin corporation, the costs of these proceedings to include the sum of \$1,653.25 as and for Plaintiffs' just and reasonable attorneys' fees and costs.

C. That Plaintiffs recover from the Defendant, LAKE EFFECT CONSTRUCTION, INC., a Wisconsin corporation, the total amount of **\$20,829.93**, which includes contributions, delinquent payment assessments, interest, and attorneys' fees and costs, plus post-judgment interest on said amount at the rate required by 28 U.S.C. § 1961.

D. Plaintiffs are awarded execution for the collection of the judgments and costs granted hereunder.

E. The Court hereby retains jurisdiction of this cause and all of the parties hereto for the purpose of enforcing this Order.

F. This Order is entered without prejudice as to Plaintiffs' rights to audit or bring a subsequent lawsuit for time periods not previously audited by Plaintiffs, including but not limited to the time period of April 1, 2018 through the present.

ENTER:

DATED: 7/13/18

s/Lynn Adelman
UNITED STATES DISTRICT JUDGE

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Local 139 Health Benefit Fund, Wisconsin Operating
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